

FILED

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PATRICK E. DUFFY, CLERK

By DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

CHARLES L. CADDELL,)	CV 10-11-H-DWM
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
HELENA ELDER HOUSING, INC., a)	
Montana Corporation, et al.,)	
)	
Defendants.)	
_____)	

On September 8, 2010, the Court adopted Magistrate Judge Strong's Findings and Recommendation and dismissed Charles Caddell's federal claims against the City of Helena with prejudice. Caddell has since filed a Rule 52 Motion and two motions for reconsideration.

In his Rule 52 Motion, Caddell moves the Court to make findings of fact pursuant to Fed.R.Civ.P. 52. Because the Court dismissed Caddell's federal claims after finding Caddell has failed to state a claim for relief against the City under § 1983, findings of fact are not required under Rule 52. See Fed.R.Civ.P.


52(a)(3) ("The court is not required to state findings or conclusions when ruling on a motion under Rule 12 or 56")

Caddell also challenges the Court's Order dismissing his federal claims under Fed.R.Civ.P. 59 and 60(b). The motions will be denied for two reasons. First, Caddell does not meet the standards of Local Rule 7.3. That is, he has not filed a motion for leave to file a motion for reconsideration.

Second, even if he had, Caddell has not shown clear error or manifest injustice, presented newly discovered evidence or an intervening change in controlling law that would support amending the Court's September 8, 2010 Order. Zimmerman v. City of Oakland, 255 F.3d 734, 740 (9th Cir. 2001). Nor has he shown "fraud" or other justification for relief under Fed.R.Civ.P. 60(b).

Accordingly, IT IS HEREBY ORDERED that Caddell's Motion for Rule 52 Relief (dkt #36), Motion for Rule 60(b) Relief (dkt #38), and Motion for Rule 59 Relief Right (dkt #40) are DENIED.

Dated this 1st day of October, 2010.



Donald W. Molloy, District Judge
United States District Court